

CHAP. 573, STATS. 1870

ACT TO AMEND AN ACT ENTITLED AN ACT TO PROVIDE  
FOR THE MANAGEMENT AND SALE OF THE LANDS BELONGING  
TO THE STATE, APPROVED MARCH 28, 1868

DATE: April 4, 1870.

CHARACTER: Swamp and overflowed lands, salt marsh and tide lands

PROCEDURE FOR PURCHASE: Apply to Surveyor General; same procedure as 1868 Act.

ACREAGE LIMITATION: 640

EXEMPTION: All swamp and overflowed lands, salt marsh and tide lands within 1 mile of the State Prison at San Quentin, within 5 miles of the City and County of San Francisco, within 5 miles of the corporate limits of the City of Oakland and within 2 miles of any town or village are hereby excluded from the provisions of this Act, provided that this Act shall not be construed to authorize the sale of any land below low tide.

Repeals all Acts or parts of Acts in conflict.

## CHAPTER DLXXXIII.

(573)

*An Act to amend an Act entitled an Act to provide for the mining-  
ment and sale of the lands belonging to the State, approved March  
twenty-eighth, eighteen hundred and sixty-eight.*

[Approved April 4, 1870.]

*The People of the State of California, represented in Senate and  
Assembly, do enact as follows:*

SECTION 1. Section eight of the Act the title of which is  
recited in the title of this Act, is hereby amended so as to read  
as follows, viz:

Section 8. The Register of the State Land Office shall receive <sup>Salary of</sup>  
a salary of two thousand dollars per annum, payable the same <sup>Register.</sup>  
as other State officers are paid, and he shall be entitled to  
demand and receive the following fees: For each certificate of <sup>Fees.</sup>  
purchase, duplicate or patent, three dollars; for certifying a  
contested case to District Court, ten dollars; for copies of papers  
in his office, fifteen cents per folio, and fifty cents for the cer-  
tificate with the seal attached, and such other fees as may be  
allowed by law. All fees received by the Register shall be dis-  
posed of as provided in section fifty-five of this Act. <sup>How dis-  
posed of.</sup>

SEC. 2. Section twelve of said Act is hereby amended so as  
to read as follows, viz:

Section 12. It shall be the duty of the Surveyor-General, <sup>Duty of</sup>  
whenever application shall be made to him as hereinafter pro- <sup>Surveyor-  
General,</sup>  
vided, for any portion of the lands described in the preceding <sup>When lands  
applied for.</sup>  
section, to communicate immediately with the proper United  
States Land Office, and ask that the lands described in the  
application shall be accepted in part satisfaction of the grant  
under which it is sought to be located; and when the acceptance  
of the Register of the United States Land Office shall have been  
obtained, he shall give to the party applying, a certificate, which  
shall authorize the County Treasurer of the county in which  
the lands are situated, to receive payment thereon; *provided*,  
that in cases where the townships have not been subdivided, but  
township and other lines have been established so as to clearly  
show that a tract of land is included in any thirty-sixth section,  
and the parties applying for the same make affidavit that there  
is no legal claim to the same other than his or their own, and  
that the same is not occupied by any bona fide settler, the Sur-  
veyor-General may approve such locations, without the accept-  
ance of the Register of the United States Land Office, and the  
Register of the State Land Office may issue certificate of pur-  
chase for the same; *provided*, the State shall in no manner be <sup>Defective  
title.</sup>  
held responsible for damages, should the title prove defective,  
and that no patent shall be issued by the State until the location  
shall have been approved by the United States.

SEC. 3. Section twenty-three of said Act is hereby amended  
so as to read as follows, viz:

Section 23. Whenever any survey or location of any State <sup>Purchaser  
to make  
payments.</sup>  
lands shall have been made or approved by the Surveyor-Gen-  
eral, the purchaser shall, within fifty days from the date of said

In case of  
non-pay-  
ment.

approval or location; present his copy of the same to the County Treasurer, who shall thereupon receive the amount, whether in full or in part, so provided by law, and the fee for the certificate of purchase, indorsing his receipt therefor upon the back of the said certificate of location or survey, which shall then be returned to the purchaser; and in case said payment is not made within said fifty days, the land described in said survey or location shall revert to the State without suit, and said survey or location shall be and become null and void. All subsequent payments, whether of the balance of the principal or of the interest thereon, shall be paid to the County Treasurer in like manner, who shall indorse the same upon the back of the certificate of purchase. The Treasurer shall also direct the purchaser to take said certificate of location, or purchase, or survey so indorsed, to the Auditor, who shall charge the amount named therein to the account of the Treasurer, and make his check upon the indorsed receipt so charged.

SEC. 4. Section fifty-three of said Act is hereby amended so as to read as follows, viz:

Occupants  
of 16th and  
36th sections  
to file appli-  
cations

Section 53. Every occupant of a sixteenth or thirty-sixth section shall be protected in his or her occupancy for six months after the passage of this Act; and after the expiration of that time, any person settling upon a sixteenth or thirty-sixth section shall have sixty days after such settlement in which to file the application required in the preceding section. All applications filed in the Surveyor-General's office prior to the expiration of said six months, shall be retained until the end of that time before approval; and after the expiration of said six months, all applications shall be retained in said office for sixty days before approval. If two or more shall claim the same land, the contest shall be determined as provided in section seventeen of this Act, but no person shall have a right to purchase by reason of any settlement or improvement, unless application shall have been made within the time above prescribed. Whenever any resident of the State desires to purchase any of the other lands mentioned in section fifty-one of this Act, except the sixteenth and thirty-sixth sections, he or she shall make an affidavit before any officer authorized to administer oaths, that he or she is a citizen of the United States (or, if a foreigner, then that he has filed his intention of becoming a citizen), a resident of the shall be forwarded to the Surveyor-General.

Applicants  
for other  
lands.

SEC. 5. Section fifty-five of said Act is hereby amended so as to read as follows, viz:

Fees.

Section 55. Each application for lands under the provisions of this Act shall be accompanied by a fee of five dollars. The Surveyor-General, in addition thereto, shall demand and receive the same fees allowed the Register of the State Land Office for like service. The Surveyor-General shall use said fees so collected by him, so far as necessary, in defraying the expenses of procuring maps, records, documents and extra assistance needed either by the Surveyor-General or the Register of the State Land Office, and shall pay the residue thereof into the State treasury, and shall give a correct statement of said expenditures in his biennial report to the Governor.

How to be  
applied.

Sec. 6. Section fifty-eight of said Act is hereby amended so as to read as follows, viz:

Section 58. All persons who have purchased any portion of <sup>delinquent</sup> ~~the~~ grants mentioned in the preceding section, on a credit, are hereby required to pay the principal and any interest that may be due within one year after the passage of this Act. All amounts remaining unpaid at the end of that time shall be included in the delinquent list provided in section six of this Act, and the District Attorney shall proceed against such delinquents as provided in sections sixty-five, sixty-six, sixty-seven and sixty-eight of this Act; and if such lands revert to the State, they shall be under the control of the Board of Regents of the University, who shall dispose of the same in such manner and at such prices as they may deem best.

If lands  
revert to  
State.

Sec. 7. Section sixty of said Act is hereby amended so as to read as follows, viz:

Section 60. The Board of Directors of the Agricultural, Mining and Mechanical Arts College, or such corporations as may be appointed by law to succeed them, shall have power to order the selection of the grant of one hundred and fifty thousand acres of land granted to the State for the use of an agricultural college, and dispose of the same at such price and in such manner as they shall deem best for the interests of the college, and it shall be the duty of the Land Agent of the University, as the agent of the State, to select the lands in the United States Land Offices, according to the instructions of said Board or corporation, and it shall be the duty of the said Land Agent to issue certificates of purchase and patent to purchasers who comply with the conditions ordained by the said Board or corporation, in the manner prescribed in sections four and five of this Act; and the said Board or corporation shall invest any and all moneys accruing from the sale of said lands as they shall deem best, subject only to the conditions of the Act of Congress granting said lands.

Lands for  
Agricultural  
College.

Duty of  
Land Agent  
of the  
University.

Sec. 8. Section sixty-three of said Act is hereby amended so as to read as follows, viz:

Section 63. In the event of any of the lands sold by the State proving to be within the boundaries of a grant, or otherwise not the property of the State, the holder or assignee of the certificate of purchase or patent shall be entitled to receive in exchange therefor a certificate from the Register of the State Land Office that such amount has been paid. This certificate shall specify the kind or class of land upon which the said amount was paid, and the Controller of State, upon the presentation and surrender to him of said certificate, shall draw his warrant upon the Treasurer of State, or upon the County Treasurer of the county wherein the land is situated, if the same is swamp land, in favor of the owner and holder of said certificate, for the amount therein specified, payable out of the proper fund, and the Treasurer of State shall pay said warrant drawn in pursuance of the provisions of this section.

Land sold,  
when not  
State prop-  
erty.

Section seventy is hereby amended as follows:

Section 70. All the swamp and overflowed, salt marsh and tide lands within one mile of the State Prison at San Quentin, within five miles of the City and County of San Francisco, within

Lands  
excluded

five miles of the corporate limits of the City of Oakland, and within two miles of any town or village, are hereby excluded from the provisions of this Act; *provided*, that this Act shall not be construed to authorize the sale of any land below low tide.

Repealed

Sec. 9. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed, and this Act shall take effect from and after its passage.

#### CHAPTER DLXXIV.

*An Act for the relief Caleb Dorsey, District Attorney of Tuolumne County.*

[Approved April 4, 1870.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

Appropriation.

SECTION 1. The sum of eleven hundred and sixty-one dollars and twenty-seven cents is hereby appropriated, out of any moneys in the State treasury not otherwise appropriated, to pay Caleb Dorsey, District Attorney of Tuolumne County, it being the amount of percentage due him for obtaining judgment on the official bond of Thomas Norwood, late Treasurer of Tuolumne County, in the suit of People of the State of California vs. Thomas Norwood et al, in District Court in and for Tuolumne County; and the Controller of State is hereby authorized and directed to issue his warrant for said sum, to Caleb Dorsey or his assigns, and the Treasurer of State to pay the same.

SEC. 2. This Act shall take effect immediately.

#### CHAPTER DLXXV.

*An Act supplementary to an Act entitled an Act to provide for the management and sale of the lands belonging to the State, approved March twenty-eighth (28), eighteen hundred and sixty-eight (1868).*

[Approved April 4, 1870.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

Preferred purchasers.

SECTION 1. All settlers upon the swamp and overflowed lands belonging to the State, whose settlement is evidenced by actual inclosure, or by ditches, plough furrows or monuments, showing clearly the metes and bounds of their possessory claim, and the same are occupied for purposes of tillage or grazing,